

**TITLE 18**  
**STORM WATER MANAGEMENT ORDINANCE**

## Chapters:

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## CHAPTER 18-1 GENERAL PROVISIONS

### Sections:

- 18-1-101. Purpose.
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- 18-1-103. Applicability.
- 18-1-104. Designation of Responsibilities.
- 18-1-105. Administration and Appeals.
- 18-1-106. Storm Drainage Master Plan.

### **18-1-101. PURPOSE.**

The purpose of this Title is to establish and provide means, rules and regulations regarding the control, discharge, and removal of pollutants from storm water runoff generated and collected on real property within the boundaries of West Valley City.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-1-102. DEFINITIONS.**

Any interpretation of any definition or the manner of application of the provisions of this Title to specific individual developments, subdivisions or any projects affected by this Title, shall be left to the Public Works Department of the City. Said Department's interpretation shall be binding upon all parties involved. Whenever any words or phrases used in this Title are not defined herein, but are defined in related sections of the Utah Code or in other West Valley City Ordinances, such definitions are incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term "shall" is always mandatory, and the term "may" is permissive. The following terms as used in this Title shall have the respective meanings hereinafter set forth.

(1) "Accelerated Soil Erosion" means the increased migration and movement of soils on all land surfaces that occur as a result of human activities.

(2) "Base Flood" means a flood having a one percent chance of being equaled or exceeded in any given year.

(3) "Best Management Practices" (BMPs) means the schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPs include structural and nonstructural control.

(4) "Building Permit" means all permits for construction issued by the Building Inspection Division of the West Valley City Community and Economic Development Department, except those issued solely for Grading or for the propose of remodeling or repairing any existing building or structure where there is no increase in

impervious surface on the property resulting from such permit.

(5) "City" means West Valley City.

(6) "City Council" means the West Valley City Council.

(7) "City Manager" means the City Manager of West Valley City.

(8) "County" means Salt Lake County.

(9) "County Facilities" means the following facilities, including their open channel sections and sections in conduit:

- (a) The Jordan River;
- (b) Utah and Salt Lake Canal;
- (c) South Jordan Canal;
- (d) North Jordan Canal;
- (e) Kennecott Canal, located at approximately 2900 South from 4000 West to 5200 West and thence north to the Riter Canal;
- (f) Riter Canal;
- (g) Lee Creek;
- (h) Kearns-Chesterfield Drain, from the Utah and Salt Lake Canal to Jordan River including Decker Lake;
- (j) 2700 West Drain, from the North Jordan Canal to I-215 Drain;
- (k) I-215 Drain, from 4100 South to Decker Lake;
- (l) 4100 South Drain, from I-215 to Jordan River;
- (m) 4700 South Drain, from South Jordan Canal to 2700 West;
- (n) Coon Creek;
- (o) Kersey Creek.

(10) "Developer" means any Person who alters, improves, constructs upon, or in any other way physically impacts any real property in the City. A Developer may or may not be the owner of the property.

(11) "Detention" means the temporary containing or holding of storm runoff to be released at a controlled discharge rate.

(12) "Development" means any man-made change to improved or unimproved real property, including, but not limited to, buildings or other structures, mining, dredging, filling, Grading, paving, excavation, or drilling operations.

(13) "Division" means the Engineering Division of the West Valley City Public Works Department.

(14) "Drainage Area" means that portion of a drainage basin which is a contributing area to a specified point within a single drainage basin or sub-basin expressed in acres, square miles or other unit of area; upon designation of a drainage area upon a map referred to in Section 18-1-106, "drainage area" shall mean each area so designated.

(15) "Drainage Basin" means the area where drainage or Storm Waters drain or gravitate toward a natural or artificial channel, conduit, retention or detention area; upon designation of a drainage basin upon a map referred to in Section 18-1-106, "drainage basin" shall mean each area so designated.

(16) "Drainage System" means all facilities used for conducting Excess Waters to, through and from a Drainage Area to the point of Final Retention or Destination, including

but not limited to any or all of the following: pipes, conduits, culverts, curbs, gutters, waterways, inlets, swales, ditches, gulches, channels, retention and detention areas, and appurtenant features, as well as easements and rights-of-way necessary to accommodate the same. In ascending order of size and capacity, components of the Drainage System include the following: Unit Drainage System, Intermediate Drainage System, Major Drainage System, County Facility. A Drainage System may, but need not, contain all of the foregoing components.

(17) “Earth Disturbance” means a man-made change in the natural cover or topography of land, including all Grading, cut and fill, building, paving, landscaping and other activities which may result in, or contribute to, soil Erosion or Sedimentation of the Storm Waters.

(18) “Erosion” means the process by which the ground surface is worn away by action of wind, water, gravity, or any other natural means.

(19) “Excavation” means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, relocated, or stockpiled, including all conditions resulting from such activities.

(20) “Excess Waters” means those waters flowing upon or across real property which are created because of alteration of or building upon the natural terrain, or other increase in the impervious surface of the property, which waters are additional to the waters which would flow upon or across the unaltered natural terrain.

(21) “Filling” means any act by which soil, rock, or other construction materials are placed, stockpiled, dumped, or a combination thereof, onto the surface of the earth that may result in exposure to rain or wind.

(22) “Final Destination” means a natural or artificial retention area which serves one or more drainage basins into which excess waters are discharged, without subsequent discharge into any other drainage system, facility or retention or detention area or facility.

(23) “FIRM” or “Flood Insurance Study for Salt Lake County and Incorporated Areas” means a scientific and engineering report issued by the Federal Emergency Management Agency, effective September 21, 2001, and an accompanying Flood Insurance Rate Map (FIRM), both of which are on file in the office of the West Valley City Public Works Department.

(24) “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

(25) “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(26) “Grading” means any stripping, excavation, filling, stockpiling, or similar disturbance of real property, including such property in its excavated or filled condition.

(27) “Guidance Document for Storm Water Management” means the West Valley City Public Works Department’s published manual entitled “Guidance Document for Storm Water Management, 2002,” including any amendments.

(28) “Intermediate Drainage System Facility” means that part of the drainage system which serves one or more single units, subdivision or development drainage system facilities, which conveys excess waters from a unit, subdivision or other drainage site and which is tributary to a Major Drainage System Facility, a trunk line, or County Facility. Intermediate Drainage System Facilities within this system will be designed to fully accommodate a 10-year frequency flood.

(29) “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

(30) “Major Drainage System Facility” means that part of the Drainage System within a Drainage Basin which is contributed to by one or more Drainage Areas within the Drainage Basin by Unit and Intermediate Drainage Systems. A Major Drainage System Facility is tributary to a County Facility.

(31) “Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

(32) “Municipal Separate Storm Sewer” means a conveyance or system of conveyances (including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), designed or used for collecting or conveying Storm Waters.

(33) “New Construction” means structures for which the “start of construction” commenced on or after the effective date of this Storm Water Management Ordinance, and includes any subsequent improvements to such structures.

(34) “Permanent Soil Erosion Control Measures” means those control measures which are installed or constructed on real property to control Erosion, and which are maintained after completion of all Grading and earth disturbance activities.

(35) “Permittee” means any Person owning, developing, or occupying a parcel of property which is subject to a Storm Water Management Permit. Permittee shall include an applicant for a Storm Water Management Permit.

(36) “Person” means any individual, firm, trust, partnership, public or private association or corporation.

(37) “Pollutant” means any dirt, slurry, solid waste, construction debris, garbage, trash, rock, sand and any industrial, municipal or agricultural waste.

(38) “Private Drainage System Facility” means that drainage system which drains privately-owned property, and is tributary to a Unit, Intermediate or Major Drainage System Facility, County Facility, natural tributary or Final Destination.

(39) “Public Works Department” means the West Valley City Public Works Department.

(40) “Public Works Director” means the Director of the West Valley City Public Works Department.

(41) “Retention” means temporary or permanent accumulation of Excess Waters and/or other Storm Waters, and shall include the total or partial accumulation of such waters.

(42) “Sediment” means solid material settled from suspension in a liquid. “Sedimentation” is the deposition or accumulation of such Sediment.

**(43) “Special Flood Hazard Areas” shall mean those areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for Salt Lake County and Incorporated Areas” effective September 21, 2001, with an accompanying Flood Insurance Rate Map (FIRM) dated September 21, 2001. The Flood Insurance Study and FIRM are on file in the office of the West Valley City Public Works Department.**

(44) “Start of Construction” includes “Substantial Improvement” and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. “Actual start” means the first placement of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. “Start of Construction” does not include land preparation such as clearing, Grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a Substantial Improvement, “actual start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(45) “Storm Drainage Master Plan” is the capital facilities plan maintained and altered by the Division, which is required and described in the Utah Code.

(46) “Storm Waters” means a storm or flood flow of the magnitude which is expected to occur on the average of a 10-year frequency or has a 10 percent chance of being equaled or exceeded during any one year. “Storm Water” is the water that is produced from rain storms or melting snow.

(47) “Stripping” means any activity which removes, or significantly disturbs, the vegetative surface cover (including clearing and grubbing operations).

(48) “Structure” means a walled and roofed building or manufactured home that is principally above ground.

(49) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions.

(50) “Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(51) “Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “Start of Construction” of the improvement. This term includes structures which have incurred “Substantial Damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that has been identified by the local code enforcement official and which is the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

(52) “Suspended Sediment” means the very fine soil particles that remain in suspension in water for a considerable period of time without contact with the solid fluid boundary at or near the bottom. They are maintained in suspension by the upward components of turbulent currents.

(53) “UPDES” means the Utah Pollution Discharge Elimination System.

(54) “Unit Drainage System Facility” means that Drainage System which drains a Subdivision or other individual Development area, and which is tributary to an Intermediate or Major Drainage System Facility or County Facility.

**(Ord. No. 94-110 Amended 09/21/1994; Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-1-103. APPLICABILITY.**

The provision of this Title shall apply to all real property within the incorporated area of the City and shall apply to all portions of the City Drainage System. This Title shall be deemed a clarification and continuation of previous ordinances and not a new enactment insofar as the substance of previous ordinances do not directly conflict with the provisions of this Title. Where developments are in construction based on flood control approval under former ordinances, this Title is applicable as clarification of the requirements of the former ordinances as they apply to said

developments, where questions concerning the City's authority to require specific storm drainage, flood control facilities and water quality issues are raised.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-1-104. DESIGNATION OF RESPONSIBILITIES.**

(1) It is and shall be the responsibility and obligation of the Developer of real property to control, contain, or discharge into a Drainage System facility, excess Storm Waters; and to reduce pollutants in storm runoff generated upon real property in the City, in accordance with this Title. A Developer's responsibility includes:

- (a) Construction and maintenance of Private and Unit Drainage System Facilities, at such Developer's expense;
- (b) Preparation and compliance with a Storm Water Pollution Prevention Plan approved by the City for all new developments and redevelopment projects;
- (c) Payment of impact fees, or in lieu thereof, construction of Intermediate and/or Major Drainage System Facilities, in accordance with Title 8, Impact Fees;
- (d) Payment of Storm Water Utility fees in accordance with Title 20 Chapter 7 Storm Water Utility.

(2) The City's responsibility is to:

- (a) Develop and periodically update a Storm Drainage Master Plan which designates anticipated flows and capacities required in the Major Drainage System;
- (b) Maintain, through its Storm Water Utility, all Unit, Intermediate, and Major Drainage System Facilities dedicated to the City;
- (c) Construct intermediate and/or Major Drainage System Facilities using storm drainage impact fees or other funds. The Public Works Department, through its budget process, shall establish priorities and determine which facilities, if any, will be constructed each year, at City expense, and make recommendations to the City Council for approval.

(3) **The City is not responsible for the construction or maintenance of any non-City facilities.**

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-1-105. ADMINISTRATION AND APPEALS.**

The Division shall be responsible for the administration and regulation provided for in this Title. Any Person affected by a decision of the Division interpreting the provisions of this Title may appeal such decision to the Public Works Director and then to the City Manager. Decisions of the City Manager may be appealed to the City Council.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-1-106. STORM DRAINAGE MASTER PLAN.**

(1) A master plan map for construction of the Major Storm Drainage System has adopted by the City. The master plan delineates the boundaries of the Drainage Basins and Drainage Areas of the City, estimates the amount or volume, frequency and course of Storm Waters, and designates any Drainage System now provided or to be provided for the drainage and control of Storm Waters, including location of outfall or disposal points, and designates the required capacity of the Major Storm Drainage System.

(2) As necessary, the Storm Drainage Master Plan may be updated or amended to reflect changed conditions. Studies in individual Drainage Basins and Drainage Areas may be completed by the Division, or at the option of and under the direction of the Division, by professional engineers competent in hydrology and hydraulics.

(3) Estimated runoff rates and volumes in the Storm Drainage Master Plan shall be based upon present conditions and the potential for future development of the City, taking into consideration the current land use elements of the General Plan of the City, past weather experience and other factors deemed relevant by the Division.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

## CHAPTER 18-2 STORM WATER MANAGEMENT PERMIT

### Sections:

- 18-2-101. Storm Water Management Permit Required.
- 18-2-102. Storm Water Management Permit Application.
- 18-2-103. Fees.
- 18-2-104. Excluded Storm Water Control Facilities.
- 18-2-105. Existing Water Rights.
- 18-2-106. New Water Rights.
- 18-2-107. Permit Runs with the Land.
- 18-2-108. Recording Storm Water Management Permits.

### **18-2-101. STORM WATER MANAGEMENT PERMIT REQUIRED.**

Each Person who alters, improves, constructs upon, or in any other way physically impacts real property located within the City shall comply with the requirements of this Title and, beginning April 1, 2003, prior to taking any action upon property which will affect the Retention, drainage, flow, or water quality of Storm Waters within the City, every Person shall obtain a Storm Water Management Permit from the City. Provided, however, that Storm Water Management Permits are not required for non-commercial gardening or agricultural activities that take place on parcels of property that are less than one acre in size. As set forth in this Title, the Storm Water Management Permit may, as determined by the Division, require specific actions and consist of one or more components with respect to drainage of subsurface waters, construction of Storm Water facilities, connection to existing Storm Water facilities, maintenance of Storm Water facilities, Grading and Erosion control, and water quality. Permits may be suspended or revoked by the Division when it is determined to be in the best interest and welfare of the public.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-102. STORM WATER MANAGEMENT PERMIT APPLICATION.**

All applicants for Storm Water Management Permits shall submit plans to the Division for review and approval prior to the commencement of work upon the property which is the subject of the permit. Plans shall be prepared by a licensed professional engineer, and shall include detailed plans and specifications for the construction and installation of all Drainage System facilities for the control and drainage of Excess Waters on the property within said Development, in accordance with Division standards and in conformance with the Storm Drainage Master Plan.

All submitted plans shall show all existing irrigation ditches on the property and any canals adjacent and/or contiguous to the property. Failure to show said ditches or canals, or to adequately provide for all existing irrigation rights may, at the discretion of the Division, result in the denial of the Storm Water Management Permit until such time as the applicant has made, as determined by the Division, adequate provision for the existing irrigation rights

located on or through the proposed site. All applications for Storm Water Management Permits shall include such other information as may be deemed relevant by the Division and shall be signed by the owner or a legally authorized representative of the owner of the property which is the subject of the permit.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-103. FEES.**

All applications for a Storm Water Management Permit shall be accompanied by the appropriate permit and/or review fees. Each component of the Storm Water Management Permit may require separate fees. All fees are non-refundable. The amount of such fees shall be set forth in the Consolidated Fee Schedule.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-104. EXCLUDED STORM WATER CONTROL FACILITIES.**

The provisions of this Chapter shall not apply to any storm drains and subsurface collection systems under the control of Salt Lake County. A permit from Salt Lake County Flood Control is required for use of County Facilities.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-105. EXISTING WATER RIGHTS.**

No Storm Water Management Permit shall be required for any existing use of natural channels within the City for such beneficial purposes as are approved by the office of the state engineer for the State of Utah, nor any water rights established by the state engineer or by any court of competent jurisdiction. No provision contained in this Title shall be construed to interfere with or permit the use, allocation or reallocation of water rights, or of any culinary water collection or distribution system, or waters and facilities used in connection such rights or systems.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-106. NEW WATER RIGHTS.**

No individual or entity may file for any new water right with the office of the state engineer for water which is to be conveyed through a Storm Water Drainage System facility controlled by this Title, without first having obtained a permit from the Division to transmit water through a City-owned or controlled storm drainage facility.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-2-107. PERMIT RUNS WITH THE LAND.**

All Storm Water Management Permits shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-2-108. RECORDING STORM WATER  
MANAGEMENT PERMITS.**

In order to provide notice of the existence of a Storm Water Management Permit on a parcel of property, the City may record a copy of the permit or a notice of the existence of the permit in the records of the Salt Lake County Recorder.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**



### **CHAPTER 18-3 REGULATION OF STORM CONTROL FACILITIES**

**Sections:**

- 18-3-101. Control by the City.
- 18-3-102. Designating Watercourses Subject to City Regulation.
- 18-3-103. Notification of City Manager Action.
- 18-3-104. Notification to City Council.
- 18-3-105. Extent of City Regulation.
- 18-3-106. Maintenance of City-regulated Watercourses and Related Facilities; Collection of Operating Costs.
- 18-3-107. City Not Liable for Damages.

#### **18-3-101. CONTROL BY THE CITY.**

Any project which involves the drainage of Storm and Flood Waters through any channel within the City, excluding County Facilities, and/or which involves the type and level of maintenance to be performed on any such projects, either existing or to be completed, shall be under the control and regulated at the discretion of the City.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-3-102. DESIGNATING WATERCOURSES SUBJECT TO CITY REGULATION.**

Based on a recommendation from the Public Works Department or other pertinent information, the City Manager shall have the authority to declare any watercourse within the corporate limits of the City, or any waterway leading to the City to be subject to City regulation. Either an entire watercourse, or any part thereof may be subject to City regulation as determined by the City Manager. Provided, however, that, except as may be provided by state law, County Facilities shall not be subject to City regulation without the express consent of the City Council.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-3-103. NOTIFICATION OF CITY MANAGER ACTION.**

Any action taken by the City Manager under this Chapter shall be effective immediately upon notice being sent to:

- (1) Users of the affected watercourse, if known to the City;
- (2) Watermaster(s) of watercourse(s) affected, if known to the City; and
- (3) President of any affected canal or irrigation company.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-3-104. NOTIFICATION TO CITY COUNCIL.**

(1) In the regular City Council meeting immediately following any action taken pursuant to this Chapter, the City Manager shall advise the City Council of said action taken.

The City Council shall then have the prerogative to modify or reverse any actions taken by the City Manager.

(2) Should the City Council decide to modify or reverse the City Manager's action, such modification or reversal shall not in any way affect the authority of the City Manager to exercise future authority under this Chapter and shall not be evidence of inappropriate action taken by the City Manager.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-3-105. EXTENT OF CITY REGULATION.**

The City shall have the right to exercise any type and degree of regulation it deems necessary in accordance with applicable state law, when exercising the powers granted by this Chapter, including, but not limited to, the use of City-regulated watercourses for storm drainage and flood control purposes; provided however, that said regulation shall not injure any water right already acquired by existing shareholders at the time City begins regulation of any given water or watercourse.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-3-106. MAINTENANCE OF CITY-REGULATED WATERCOURSES AND RELATED FACILITIES; COLLECTION OF OPERATING COSTS.**

Subject to City Council approval, with respect to those watercourses subject to City regulation pursuant to this Ordinance, the Division shall annually, prior to April 1 of each year, determine and fix the sum deemed necessary to meet the expense of the current year for the purpose of controlling, regulating and distributing water and constructing and keeping in repair the necessary means for diverting, conveying and distributing the same, and shall collect such sum from the Persons entitled to the use of such water, pro rata according to acreage irrigated or number of water shares, whichever is deemed to be most appropriate by the Division, whether the acreage is situated within or without the corporate boundary of the City. The funds so derived shall not be appropriated or used for any other purpose, and in the event that a greater sum is collected in any one year than is necessary for said purpose, the excess thereof shall be carried to the account of the year next following and applied to the purpose for which it was collected. Such sum shall be fixed and collected as provided by ordinance, and until collected, the same shall be a lien on such water rights and the land irrigated thereby.

Notwithstanding the foregoing, should the City Manager elect to regulate a watercourse or related facilities, or any water during the irrigation season, he may determine and impose upon the water shareholders and/or watercourse users who use said watercourse or related facilities, a reasonable fee to meet the expenses as outlined in the previous paragraph. Said fee shall be enforceable to the same extent as outlined in the foregoing paragraph until such time as the City Council can, by ordinance, establish said fee.



Should any given watercourse, or related facility regulated by the City, be used for purposes in addition to irrigation, including but not limited to, storm drainage and flood control, the maintenance cost of such watercourse or facility shall be divided pro rata among the respective water and watercourse users, according to the extent to which each use impacts said watercourse or facility, as determined by the Division.

The Division shall supervise all work related to cleaning and maintaining the City-regulated watercourses and related facilities and of all other work deemed necessary by the Division to facilitate the distribution of water in the City.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-3-107. CITY NOT LIABLE FOR DAMAGES.**

The City shall not be liable for damages to any water user by reason of stoppage or interruption of the water supply, caused by emergency shut down of gates or weirs, accidents to canals, ditches, or during any alteration, repairs, additions or any unavoidable cause.

**(Ord. No. 03-19 Add 03/06/2003)**

## CHAPTER 18-4 DRAINAGE OF SUBSURFACE WATERS

### Sections:

- 18-4-101. Storm Water Maintenance Permit for Development within High Water Table Areas.
- 18-4-102. Soils Report.
- 18-4-103. Requirements for Development.
- 18-4-104. Basements May be Prohibited.
- 18-4-105. Uniform Building Code.

### **18-4-101. STORM WATER MAINTENANCE PERMIT FOR DEVELOPMENT WITHIN HIGH WATER TABLE AREAS.**

In areas where soil conservation maps indicate high water tables, and in all other areas determined to be potential high water table areas by the Division, the Division may impose the requirements of this Chapter as part of the Storm Water Management Permit.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-4-102. SOILS REPORT.**

Any Person developing any area determined to fall within the purview of this Chapter shall, prior to the issuance of a Storm Water Management Permit, submit a comprehensive soil report for review by the Division. The soils report shall define the porosity of the soil and the high and low levels of the water table in the proposed area. The report shall contain an examination of the water table during the period from April through June, or any other time high water table may occur as determined by the Division. All examinations of the property upon which the soils report is based shall have been made within a reasonable time prior to the date of the report. The Division may require the digging of test holes to a depth sufficient to determine the extent of the subsurface water table in the proposed development and any other information required by the Division.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-4-103. REQUIREMENTS FOR DEVELOPMENT.**

The subsurface drainage portion of the Storm Water Management Permit may require, as determined appropriate by the Division, the following restrictions or requirements:

(1) Based on the soils report provided for in this Chapter and any other relevant information available to the Division, a subsurface drainage collection system may be required in order to artificially lower the water table and to drain surface water to the street, or the lowest habitable floor elevation of the structure may be limited to an elevation recommended in the soils report, provided however, that the floor elevation shall be at least three feet above the high ground water elevation.

(2) Prior to any Development or Substantial Improvement, a site drainage Grading plan shall be required to provide positive drainage away from all structures so as to

prevent any conveying or trapping of water adjacent to the basement and foundation walls of any improvements. Grading shall be designed and maintained to move all water to the street, public drainage easement, or a public storm drain without ponding. On-site ponding, which has not been approved by the Division and specified in the Storm Water Management Permit, shall be considered the Developer's responsibility to drain and shall constitute a health hazard.

(3) Drainage easements shall be conveyed to the City along all rear, side and front lot lines when required to accommodate surface drainage of the development. The size and location of the drainage easements shall be determined by the Division, but shall not be less than 15 feet in width. The Division shall recommend whether the drainage easements shall be separate from other utility easements or shall be used concurrently with said easements.

(4) Any storm water drainage facilities constructed on the property shall be constructed in accordance with Division standards and specifications.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-4-104. BASEMENTS MAY BE PROHIBITED.**

Based on the soils report submitted to the Division as required by this Chapter and any other relevant information available to the Division, building designs that include basements or below-grade structures may be prohibited. In such locations, structures shall be built above-grade at a point where rising water tables or runoff cannot affect the proposed structure, or upon the recommendations of a professional geotechnical or drainage engineer a subsurface Drainage System may be installed to protect the structure. Subsurface Drainage Systems shall be subject to the approval of the Division.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-4-105. UNIFORM BUILDING CODE.**

Nothing in this Title shall preempt the authority of the City's Chief Building Official to require soils reports, foundation investigations or any other requirements for individual building sites as required by the International Building Code or any successor code.

**(Ord. No. 03-19 Add 03/06/2003)**

## CHAPTER 18-5 STORM DRAINAGE SYSTEMS

### Sections:

- 18-5-101. Control of Surface Waters; Storm Drainage Facilities.
- 18-5-102. Control of Excess Waters.
- 18-5-103. Connection to City Drainage System.
- 18-5-104. Use of State or County Storm Drainage Facilities.
- 18-5-105. Temporary Drainage Solutions.
- 18-5-106. Facilities Become Property of the City.
- 18-5-200P Privately-constructed Drainage Facilities
- 18-5-201. Major Drainage System Reimbursement Agreement.
- 18-5-202. Private Construction of Intermediate Drainage System Facilities.
- 18-5-203. Designation of Drainage Subbasin.
- 18-5-204. Drainage Facilities Study.
- 18-5-205. Construction and Inspection of Facilities.
- 18-5-206. Cost of Facilities.
- 18-5-207. Intermediate System Impact Fees
- 18-5-208. Intermediate System Reimbursement Agreement.
- 18-5-300P Permanent Retention Facilities
- 18-5-301. Permanent Retention Areas.
- 18-5-302. Retention Plan Review.
- 18-5-303. Exception to Storm Drainage Impact Fees.
- 18-5-304. Retention Facility Ownership and Maintenance.
- 18-5-400P Water Quality
- 18-5-401. Storm Water Management Plan.
- 18-5-402. Applicability.
- 18-5-403. Storm Water Pollution Prevention Plans.
- 18-5-404. Maintenance.
- 18-5-405. Inspection.
- 18-5-406. Right-of-entry.

### **18-5-101. CONTROL OF SURFACE WATERS; STORM DRAINAGE FACILITIES.**

The provisions of the Storm Water Management Permit may include, as determined to be appropriate by the Division, the restrictions or requirements set forth in this Chapter with respect to collection and drainage of surface waters and the construction, use and maintenance of Storm Water Drainage Systems.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-5-102. CONTROL OF EXCESS WATERS.**

As determined to be necessary by the Division, any Person developing real property within the City may be required to provide, at the Person's own expense:

(1) The means, structures and systems necessary to provide for the Detention of Storm Waters on the property, or for the entire Development;

(2) The Private Drainage System Facility needed to control Storm Water runoff on the property and discharge it into an approved Drainage System facility;

(3) The Unit Drainage System Facilities required to control Storm Water runoff from any property to be dedicated to the City within the Development;

(4) The Intermediate Drainage System required to convey Storm Waters to the Major Drainage System; and/or

(5) Any portion of the Major Drainage System needed to safely convey Storm Water runoff from the property, which portion of the System may be located within or adjacent to the property. Persons who construct Major Drainage System improvements may be entitled to a Storm Drain impact fee offset or reimbursement for the cost of constructing certain portions of the Major Drainage System, in accordance with the provisions of Title 8 of this Code.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-5-103. CONNECTION TO CITY DRAINAGE SYSTEM.**

Any Unit or Intermediate Drainage System Facilities constructed by a Person developing property within the City shall be connected to the appropriate Intermediate or Major Drainage System Facility constructed to serve the area which includes the Development. The Person developing the property shall be responsible for payment of any fees that may be required by Title 8 of this Code.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-5-104. USE OF STATE OR COUNTY STORM DRAINAGE FACILITIES.**

Any Person developing property within the City who may connect directly to state or county facilities, may do so under the following conditions:

(1) The Division shall determine whether or not and/or the degree to which the proposed Development impacts the City's Storm Water Drainage System.

(2) If the Division determines that the proposed Development will not significantly impact City storm drainage facilities, the Division may exempt the proposed Development from the payment of any or all City storm drain impact fees.

(3) The Person developing the property shall be required to submit to the Division a written statement from the state or the county indicating that all requirements for connection into the state or county facility have been or will be complied with, and that the Person has authorization to use the state or county drainage system.

(4) The Person developing the property shall submit evidence, satisfactory to the Division, that the proposed storm drainage and flood control plan will adequately service the proposed Development. The proposed plan shall in all respects conform to the requirements of this Title.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-5-105. TEMPORARY DRAINAGE SOLUTIONS.**

(1) If no Drainage System Facility exists to which Development on a property can reasonably be connected, the Division, in its discretion, may approve temporary drainage facilities providing for on-site Retention or absorption of

Storm Waters that will allow development to continue pending completion of the Intermediate or Major Drainage System. At minimum, all temporary drainage facilities shall:

- (a) Retain Excess Waters on designated portions of the property being developed, or in facilities upon other property to which the Storm Waters may be conveyed and upon which the Person developing the property has legal right to retain such Excess Waters; or
- (b) Provide a temporary absorption area, not part of the proposed Development, to allow runoff waters to absorb into the soil naturally. Any such temporary area shall not be less than one-half the size of the developed Drainage Area tributary to it.
- (c) Provide the same level of Flood protection at all times that will be provided by the completed systems. Temporary facilities shall include provisions for overflow of Storm Waters in excess of a 10-year frequency flood.

(2) Property which has been approved for a temporary drainage facility shall be subject to Storm Drain impact fees in accordance with the provisions of Title 8, and the provisions of Chapter 5, Part 2 of this Title. All costs of providing for temporary drainage facilities shall be the responsibility of the Person developing the property.

(3) As determined to be appropriate by the Division, all temporary Retention facilities shall be constructed in accordance with the Guidance Document for Storm Water Management.

(4) The Person developing the property shall be responsible for complete maintenance of the temporary drainage facility, as determined by the Division. This maintenance responsibility shall continue until such time as permanent or alternate Storm Water Drainage System and Flood control facilities are installed and approved by the City. The Permittee shall also, if required by the Division, file with the City a 10-year maintenance bond, in a form acceptable to the City, to guarantee proper maintenance of the facility.

(5) Prior to final approval of the Storm Water Management Permit, to assure that the land on which said temporary drainage facility lies is used for Storm Water control purposes, the Permittee shall convey to the City a perpetual easement encumbering the land, or warranty deed for the property on which the Retention facility is located. Should an alternate or permanent Storm Water Drainage and Flood control facility be installed, the City shall, upon written request from the Permittee, reconvey to the Permittee the land used for the temporary drainage facility at a cost equal to any and all expenses incurred by the City in the construction or maintenance of the facility, or as a result of the Permittee's failure to properly construct or maintain the facility.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-5-106. FACILITIES BECOME PROPERTY OF THE CITY.**

All Intermediate and Major Drainage System Facilities constructed, and all Unit Drainage System Facilities constructed in the public right-of-way, shall, upon completion of construction and written acceptance by the City, become the property of the City. Written acceptance shall be given if the Drainage System facilities are constructed in compliance with Division requirements; provided, however, that at the discretion of the City, temporary Retention areas may be retained by the Developer, or such Retention areas may, at the discretion of the City, be conveyed or dedicated to the City.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-5-200P PRIVATELY-CONSTRUCTED DRAINAGE FACILITIES**

#### **18-5-201. MAJOR DRAINAGE SYSTEM REIMBURSEMENT AGREEMENT.**

Any Person who constructs any portion of a Major Drainage System Facility as part of the approval of a Development, the cost of which exceeds the Person's impact fee for that Development, may request an impact fee reimbursement agreement as set forth in Title 8 of this Code.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-5-202. PRIVATE CONSTRUCTION OF INTERMEDIATE DRAINAGE SYSTEM FACILITIES.**

The City may allow a Person to construct Intermediate Drainage System Facilities that may be used to collect or transport Storm Waters generated by other properties. The following sections of Chapter 18-5, Part 2, detail the manner in which such Facilities may be constructed by a Person and the manner and cost of connection to such System by another Person.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-5-203. DESIGNATION OF DRAINAGE SUBBASIN.**

The Developer shall request the Division designate a drainage subbasin to be served by the Intermediate Drainage System Facility to be constructed. The drainage subbasin shall be designated in the Storm Drainage Master Plan.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

#### **18-5-204. DRAINAGE FACILITIES STUDY.**

A study to determine the Intermediate Drainage System Facility needed to provide drainage and convey runoff water to a Major Drainage System Facility shall be completed by a professional engineer for the Developer, under the direction of the Division. Construction plans for the Intermediate Drainage System Facility shall be submitted to the Division

for review and approval. The approved Facilities shall be added to the Storm Drainage Master Plan.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-205. CONSTRUCTION AND INSPECTION OF FACILITIES.**

Upon approval of the construction plans and specifications and acquisition of the necessary easements, rights-of-way or property, the Developer shall construct the Drainage System facilities at the Developer's sole expense, in accordance with the plans and specifications approved by the Division. The Division shall inspect the construction and, if the Drainage System facilities meet the requirements of the plans and specifications approved by the Division, shall give the Developer notice of acceptance. Upon the Division's acceptance of the facilities, the Developer shall convey to the City all of the developer's right, title, estate and interest in the Drainage System facilities, and the City shall operate and maintain the facilities.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-206. COST OF FACILITIES**

Upon completion of the work, the Developer shall submit to the Division a report listing the costs of providing the Intermediate Drainage System Facilities. The report shall include the cost of construction, engineering design services, any construction engineering and inspection services, land acquisition and incidental costs required to construct the facilities.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-207. INTERMEDIATE SYSTEM IMPACT FEES**

An Intermediate Drainage System impact fee for the subbasin shall be calculated by dividing the total cost of providing the Intermediate Drainage System, divided by the total acreage included in the subbasin, and served by the facility. The Intermediate Drainage System impact fee for the subbasin shall be added to the Storm Drainage Impact Fee for the drainage service area in which the subbasin is located. The combined fee shall be listed in the City's Consolidated Fee Schedule as the Storm Drainage Impact Fee for that subbasin as set forth in Title 8 of this Code.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-208. INTERMEDIATE SYSTEM REIMBURSEMENT AGREEMENT.**

Any Developer who constructs any portion of an Intermediate Drainage System Facility as part of the approval of a Development, the cost of which exceeds the Developer's impact fee for that Development, may request an impact fee reimbursement agreement as set forth in Title 8 of this Code.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-300P PERMANENT RETENTION FACILITIES**

**18-5-301. PERMANENT RETENTION AREAS.**

In certain areas of the City, it may be impractical to plan and construct a Storm Water Drainage System, due to topography and/or lack of Development. The West Valley City Storm Drainage Master Plan shall designate those areas where it is impractical to construct Storm Water Drainage Systems. The Division may authorize Developments within such areas to retain excess runoff water on site, for an unlimited period of time, as an alternative to the payment of flood control impact fees or assessments, or as an alternative to the construction of Flood control or Storm Water Drainage System facilities which may otherwise be required by this Title.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-302. RETENTION PLAN REVIEW.**

All proposed plans and specifications shall be reviewed by the Division to determine that the Retention system as designed will, among other requirements determined to be necessary by the Division, adequately control excess runoff waters and that provision is made for overflow in excess of a 10-year frequency Flood. Retention facilities shall be constructed in accordance with the Guidance Document for Storm Water Management. On-site Retention facilities shall comply with all other City ordinances, including but not limited to, landscaping requirements.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-303. EXCEPTION TO STORM DRAINAGE IMPACT FEES.**

Storm Drainage impact fees shall not be assessed against properties within the areas designated in the Storm Drainage Master Plan as Storm Water Retention areas and for which a permanent Retention system has been approved by the Division. Except as otherwise provided above, Retention of Excess Waters on-site as an alternative to participating in the Drainage System contemplated by this Title is prohibited.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-304. RETENTION FACILITY OWNERSHIP AND MAINTENANCE.**

All on-site Retention facilities shall be owned and maintained by the Developer constructing the facility.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-400P WATER QUALITY**

**18-5-401. STORM WATER MANAGEMENT PLAN.**

Pursuant to the terms, conditions and requirements of the UPDES Permit issued to Salt Lake County by the State of Utah, the City is required to develop and implement a Storm Water Management Plan to control discharges to the Municipal Separate Storm Sewer System (MS4) owned or



operated by the City. Elements of this mandatory program require the City to take steps to minimize the discharge of sediment, debris, oil and grease, pesticides, metals, nutrients, bacteria and viruses, and other pollutants from storm runoff generated from developed real property within the City.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-402. APPLICABILITY.**

All Construction and Substantial Improvement projects shall include in their design, specific measures to reduce pollutants in the first one inch of Storm Water runoff generated from the real property. This Part shall not apply to the alterations of an existing developed property that change the “footprint” of a site or building in such a way that there is a disturbance of less than 5,000 square feet of land.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-403. STORM WATER POLLUTION PREVENTION PLANS.**

Prior to the issuance of a Storm Water Management Permit for any Construction or Substantial Improvement project, a Storm Water Pollution Prevention Plan shall be prepared by a civil engineer, registered in the State of Utah, and submitted to the Division for review and approval. This plan shall be prepared using the Guidance Document for Storm Water Management and shall address specific pollutants expected to be generated from the specific site, and describe all permanent water quality “Best Management Practices” (“BMPs”) to be used on the fully-developed site. The type and scope of this plan will vary with the characteristics of each site. Review and approval of this plan by the Division is required before any permits are issued that relate to the project.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-404. MAINTENANCE.**

The design and planning of all Storm Water management facilities or BMPs shall include detailed maintenance and repair procedures to ensure their continued functioning. These procedures will identify the parts or components of a Storm Water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. The Permittee shall be responsible for maintenance of any and all facilities included in the approved Storm Water Pollution Prevention Plan.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-405. INSPECTION.**

All Storm Water management facilities shall be subject to an annual inspection by the Division to document maintenance and repair needs and to ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include removal of silt, litter and

other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance deficiencies shall be corrected within such time period as is determined to be reasonable by the Division, and the inspection and maintenance requirements may be increased as deemed necessary to ensure proper functioning of the Storm Water management facility. Additional inspections may be required as determined to be appropriate by the Division.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

**18-5-406. RIGHT-OF-ENTRY.**

When any new Drainage System facility is installed on private property, or when any new connection is made between private property and a public Drainage System facility, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City has a reasonable basis to believe that a violation of this Title is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Chapter.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

## CHAPTER 18-6 CONSTRUCTION IN FLOODPLAIN AREAS

### Sections:

- 18-6-101. Stormwater Management Permit Floodplain Requirements.
- 18-6-102. Purpose of this Chapter.
- 18-6-103. Methods of Reducing Flood Losses.
- 18-6-104. Areas to which this Chapter Applies.
- 18-6-105. Compliance.
- 18-6-106. Abrogation and Greater Restrictions.
- 18-6-107. Interpretation.
- 18-6-108. Warning and Disclaimer of Liability.
- 18-6-109. Additional Application Requirements.
- 18-6-110. Responsibilities of the Division.
- 18-6-111. Variance Procedure.
- 18-6-112. General Standards.
- 18-6-113. Specific Standards.
- 18-6-114. Floodways.

### **18-6-101. STORMWATER MANAGEMENT PERMIT FLOODPLAIN REQUIREMENTS.**

The provisions of the Storm Water Management Permit may include, as determined to be appropriate by the Division, the restrictions or requirements set forth in this Chapter with respect to the development of property within designated floodplain areas.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-6-102. PURPOSE OF THIS CHAPTER.**

It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to Flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly Flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with Flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges;
- (6) To help maintain a stable tax base by providing for the sound use and development of Special Flood Hazard Areas so as to minimize future Flood blight areas;
- (7) To notify potential buyers that property is in a Special Flood Hazard Area; and
- (8) To ensure that those who occupy the Special Flood Hazard Areas assume responsibility for their actions.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-6-103. METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes, this Chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses that are dangerous to health, safety, and property due to Storm Water or Erosion hazards, or that result in damaging increases in Erosion or in Flood heights or velocities;
- (2) Requiring that uses vulnerable to Floods, including facilities that serve such uses, be protected against Flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers that help accommodate or channel Flood waters;
- (4) Controlling filling, Grading, dredging, and other Development that may increase Flood damage; and
- (5) Preventing or regulating the construction of Flood barriers that will unnaturally divert Flood waters or that may increase Flood hazards in other areas.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-6-104. AREAS TO WHICH THIS CHAPTER APPLIES.**

This Chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of West Valley City.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-6-105. COMPLIANCE.**

No structure or land shall hereafter be constructed, located, extended, converted, altered or developed without full compliance with the terms of this Chapter and other applicable regulations.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-6-106. ABROGATION AND GREATER RESTRICTIONS.**

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-6-107. INTERPRETATION.**

In the interpretation and application of this Chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City, and in furtherance of the purposes set forth in 18-6-102; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**(Ord. No. 03-19 Add 03/06/2003)**



**18-6-108. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of Flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such Areas will be free from Flooding or Flood damages. This Chapter shall not create liability on the part of the City, any officer, or employee thereof, or the Federal Emergency Management Agency for any Flood damages that result from reliance on this Chapter or any administrative decision lawfully made in accordance with this Chapter.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-6-109. ADDITIONAL APPLICATION REQUIREMENTS.**

In addition to the application requirements set forth in Section 18-2-102, applications for Storm Water Management Permits in Special Flood Hazard Areas may be required to provide such additional information as the Division may require, including, but not limited to, the following:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 18-6-112(2); and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed Development.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-6-110. RESPONSIBILITIES OF THE DIVISION.**

Responsibilities of the Division shall include, but not be limited to:

- (1) Permit Review.
  - (a) Review all City-issued development permits to determine that the permit requirements of this Ordinance have been satisfied.
  - (b) Review all City-issued development permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required.
  - (c) Review all City-issued development permits to determine if the proposed Development is located in a Floodway. If located in the Floodway, assure that the encroachment provisions of Section 18-6-114(1) are met.
- (2) Use of Other Base Flood Data. When Base Flood elevation data has not been provided in accordance with Section 18-6-109, "Additional Application Requirements,"

the City Engineer shall obtain, review, and reasonably utilize any Base Flood elevation and Floodway data available from any federal, state, or other source as criteria for requiring that New Construction, Development or Substantial Improvements in Zone A are administered in accordance with Section 18-6-113, "Specific Standards."

- (3) Obtain and Maintain Information.

- (a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (b) For all new or substantially improved flood-proofed structures:
  - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed.
  - (ii) Maintain the flood-proofing certifications required in Section 18-6-109(3).
- (c) Maintain for public inspection all records pertaining to the provisions of this Chapter.

- (4) Alteration of Watercourses.

- (a) Notify adjacent communities and the State Division of Comprehensive Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the Flood-carrying capacity is not diminished.

(5) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The Person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18-6-111, "Variance Procedure."

**(Ord. No. 03-19 Add 03/06/2003)**

**18-6-111. VARIANCE PROCEDURE.**

- (1) Appeal Board.
  - (a) The Board of Adjustment, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
  - (b) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Division in the enforcement or administration of the requirements of this Chapter.
  - (c) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the Third District Court, as

- provided in Section 10-9-708, Utah Code Annotated 1953, as amended.
- (d) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Chapter, and:
- (i) The danger that materials may be swept onto other lands to the injury of others;
  - (ii) The danger to life and property due to Flooding or Erosion damage;
  - (iii) The susceptibility of the proposed facility and its contents to Flood damage and the effect of such damage on the individual owners;
  - (iv) The importance of the services provided by the proposed facility to the community;
  - (v) The necessity to the facility of a waterfront location, where applicable;
  - (vi) The availability of alternative locations for the proposed use that are not subject to Flooding or Erosion damage;
  - (vii) The compatibility of the proposed use with the existing and anticipated Development;
  - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (ix) The safety of access to the property in times of Flood for ordinary and emergency vehicles;
  - (x) The expected heights, velocity, duration, rate of rise and sediment transport of the Flood waters, and the effects of wave action, if applicable, expected at the site; and
  - (xi) The costs of providing governmental services during and after Flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
- (e) Upon consideration of the factors of Section 18-6-111(1)(d) and the purposes of this Chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
- (f) The Division shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.
- (2) Conditions for Variances.
- (a) Generally, variances may be issued for Developments and Substantial Improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the Base Flood level, provided that items (i) thru (xi) of Section 18-6-111(1)(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
  - (b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national register of historic places or the state inventory of historic places without regard to the procedures set forth in the remainder of this Section.
  - (c) Variances shall not be issued within any designated Floodway if any increase in Flood levels during the Base Flood discharge would result.
  - (d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the Flood hazard, to afford relief.
  - (e) Variances shall only be issued upon:
    - (i) A showing of good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses; create nuisances; cause fraud or victimization of the public as identified in Section 18-6-111(1)(d), or conflict with existing local laws or ordinances.
  - (f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the Base Flood elevation and that the cost of Flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-6-112. GENERAL STANDARDS.**

In all Special Flood Hazard Areas, the following standards are required:

- (1) Anchoring.
  - (a) All Development and Substantial Improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and must be capable of resisting hydrostatic and hydrodynamic loads.
  - (b) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and must be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to

- ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements shall include:
- (i) Over-the-top ties provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
  - (ii) Frame ties provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
  - (iii) That all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (iv) That any additions to the manufactured home be similarly anchored.
- (2) Construction Materials and Methods.
    - (a) All Development or Substantial Improvements shall be constructed with materials and utility equipment resistant to Flood damage.
    - (b) All Development and Substantial Improvements shall be constructed using methods and practices that minimize Flood damage.
    - (c) All Development and Substantial Improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding.
  - (3) Utilities.
    - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the system;
    - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems and discharge from the systems into Flood waters; and
    - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during Flooding.
  - (4) Subdivision Proposals.
    - (a) All subdivision proposals shall be consistent with the need to minimize Flood damage;
    - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize Flood damage;
    - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to Flood damage; and
    - (d) Base Flood elevation data shall be provided for subdivision proposals and other proposed Development that contain at least 50 lots or five acres, whichever is less.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-6-113. SPECIFIC STANDARDS.**

In all Special Flood Hazard Areas the following provisions shall apply to the floodplain component of the Storm Water Management Permit:

- (1) Residential Construction.
  - (a) Development or Substantial Improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the Base Flood elevation.
  - (b) Within any AO Zone, all Development or Substantial Improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the FIRM (a minimum of two feet if no depth number is specified).
  - (c) Within Zones AH and AO, adequate drainage paths shall be constructed around structures on slopes to guide Flood waters around and away from proposed structures.
- (2) Nonresidential Construction.
  - (a) Development or Substantial Improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the Base Flood elevation, or, together with attendant utility and sanitary facilities, shall:
    - (i) Be flood proofed so that below the Base Flood elevation the structure is watertight, with walls substantially impermeable to the passage of water;
    - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Chapter. Such certification shall be provided to the Division as set forth in Section 18-6-110(3)(b).
  - (b) Within any AO Zone, all Development or Substantial Improvements of non-residential structures shall:
    - (i) Have the lowest floor (including basement) elevated above the highest

- adjacent grade, at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified); or
- (ii) Together with attendant utility and sanitary facilities be completely flood proofed to that level to meet the flood proofing standard specified in Section 18-6-113(2)(a).
  - (c) Within Zones AH and AO, adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) **Manufactured Homes.**
- (a) Manufactured homes shall be anchored in accordance with Section 18-6-112(1)(b).
  - (b) All newly-placed manufactured homes or those to be substantially improved shall conform to the following requirements:
    - (i) Manufactured homes that are placed or substantially improved on a site (1) outside of a manufactured home park or Subdivision, (2) in a new manufactured home park or Subdivision, (3) in an expansion to an existing manufactured home park or Subdivision, or (4) in an existing manufactured home park or Subdivision on which a manufactured home has incurred “substantial damage” as the result of a Flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the Base Flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - (ii) Manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or Subdivisions that are not subject to the provisions in (i) above shall be elevated so that either (1) the lowest floor of the manufactured home is at or above the Base Flood elevation, or (2) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade, and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (4) **Recreational Vehicles.** Recreational vehicles shall either:
- (a) be on the site for fewer than 180 consecutive days;
  - (b) be fully licensed and ready for highway use, or

- (c) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

(5) **Openings in Enclosures Below the Lowest Floor.** For all Development or Substantial Improvements, fully enclosed areas below the lowest floor that are subject to Flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding shall be provided;
- (b) The bottom of all openings shall be no higher than one foot above grade;
- (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of Floodwaters.

**(Ord. No. 03-19 Add 03/06/2003)**

#### **18-6-114. FLOODWAYS.**

Located within Special Flood Hazard Areas are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of Flood waters that carry debris and potential projectiles, and because of Erosion potential, the following provisions apply:

- (1) Encroachments, including fill, Development, Substantial Improvements, and other construction may be prohibited, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in Flood levels during the occurrence of the Base Flood discharge.
- (2) In addition to satisfying the requirements of Subsection (1) above, all Development and Substantial Improvements located in Floodways shall comply with all applicable provisions of this Chapter.

**(Ord. No. 03-19 Add 03/06/2003)**

## CHAPTER 18-7 GRADING AND EROSION CONTROL

### Sections:

- 18-7-101. Grading and Erosion Control Requirements.
- 18-7-102. General.
- 18-7-103. Site Construction Plan Approval.
- 18-7-104. Compliance with Chapter Required for Occupancy.
- 18-7-105. Adoption of Water Quality and Erosion Control Criteria.
- 18-7-106. Applicability.
- 18-7-107. Failure to Complete the Work.
- 18-7-108. Denial of Permit.
- 18-7-109. Modifications of Approved Plans.
- 18-7-110. Responsibility of Permittee.
- 18-7-111. Erosion Control Facilities.
- 18-7-112. Maintenance Requirements.
- 18-7-113. Variances and Exceptions.
- 18-7-114. Inspection.
- 18-7-115. Right of Entry.

### **18-7-101. GRADING AND EROSION CONTROL REQUIREMENTS.**

The provisions of the Storm Water Management Permit may include, as determined to be appropriate by the Division, the restrictions or requirements set forth in this Chapter with respect to Grading and Erosion control.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-7-102. GENERAL.**

Any Person who undertakes, or is responsible for undertaking, an activity which involves earth disturbance is ultimately responsible to ensure that soil Erosion and Sedimentation (and changed water flow characteristics) are controlled to the extent necessary to avoid damage to personal and real property, and to prevent pollution of the Municipal Separate Storm Sewer system and Final Destination. Nothing in this Title shall be construed as lessening the ultimate responsibility of such Persons. Nor do the requirements of this Title imply the assumption of any liability on the part of the City. The provisions of this Title are to be considered as minimum standards which are not necessarily adequate to meet the highly variable conditions which must be covered by effective control measures. Therefore, compliance with the requirements of this Title does not relieve any Person's responsibility to provide effective Grading and Erosion control measures.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-7-103. SITE CONSTRUCTION PLAN APPROVAL.**

As set forth in this Chapter, no site construction plan shall be approved unless said construction plan includes soil Erosion and sediment control measures consistent with the

requirements of this Chapter and applicable land development regulations.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-7-104. COMPLIANCE WITH CHAPTER REQUIRED FOR OCCUPANCY.**

No Certificate of Occupancy for any building shall be issued by the City, unless the Division has confirmed the applicant's compliance with the provisions of this Title.

**(Ord. No. 03-19 Repealed and Replaced 03/06/2003)**

### **18-7-105. ADOPTION OF WATER QUALITY AND EROSION CONTROL CRITERIA.**

The Guidance Document for Storm Water Management is hereby adopted as the appropriate reference for water quality and Erosion control criteria. The Division shall be guided by and shall apply the criteria contained within the Guidance Document for Storm Water Management in the administration of this Chapter.

**(Ord. No. 03-19 Add 03/06/2003)**

### **18-7-106. APPLICABILITY.**

The Storm Water Management Permit shall include a Grading and Erosion control component under the following circumstances:

(1) A permit is required for sites greater than or equal to one acre in size, and all sites smaller than one acre if they are part of a total Development that is larger than or equal to one acre in size. A permit is also required for any other site for which the Division determines that the potential for Erosion and Sedimentation is high due to soil conditions, steep or irregular slopes, past regional Sedimentation problems, or other applicable criteria.

Except as may be exempted by this Chapter, no Person shall perform any Grading, stripping, excavating, filling, or undertake any earth disturbance of any area greater than one acre in size unless a valid Storm Water Management Permit, with a Grading and Erosion control component, is issued by the City. Issuance of a Permit by the City does not exempt the parties from obtaining any permits required by Salt Lake County, the State of Utah, or the federal government.

(2) A separate application shall be required for each Grading and Erosion control component of a Storm Water Management Permit along with plans, specifications, and timing schedules for all earth disturbance. The plans shall be prepared under the supervision of a professional engineer licensed in the State of Utah and experienced in soil Erosion and Sedimentation control methods and techniques.

(3) Plans and specifications submitted with the application shall constitute a Construction Activities Storm Water Pollution Prevention Plan which shall meet all of the requirements of the Guidance Document for Storm Water Management.

**(Ord. No. 03-19 Add 03/06/2003)**



**18-7-107. FAILURE TO COMPLETE THE WORK.**

In the event a Permittee fails to complete the work or fails to comply with all the requirements, conditions, and terms of the Grading and Erosion component of the Storm Water Management Permit, the Division may suspend the Permit and may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition. The Division may also authorize completion of all necessary temporary or permanent soil Erosion control measures. The Permittee shall be liable to the City for all costs and expenses that may be incurred or expended by the City in bringing the property into compliance with the requirements of the Permit and any collection costs, including legal fees, incurred by the City. The City may recover these costs either through the Administrative Code Enforcement Program or through appropriate legal action.

(Ord. No. 03-19 Add 03/06/2003)

**18-7-108. DENIAL OF PERMIT.**

The Grading and Erosion control component of a Storm Water Management Permit shall not be issued where:

- (1) The proposed work would cause hazards to the public safety and welfare; or
- (2) The work, as proposed by the applicant, will damage any public or private property; interfere with any existing drainage course in such a manner as to cause damage to any adjacent property; result in the deposition of pollutants on any public right-of-way or into any waterway; or create an unreasonable hazard to persons or property; or
- (3) The land area for which Grading is proposed is subject to geological hazard that no reasonable amount of corrective work can eliminate.

(Ord. No. 03-19 Add 03/06/2003)

**18-7-109. MODIFICATIONS OF APPROVED PLANS.**

All proposed modifications of the approved Construction Activities Storm Water Pollution Prevention Plan must be submitted, along with all supporting materials, to the Division for review and approval. No work in connection with the proposed modifications shall be permitted without prior approval of the Division. Approval shall be granted when the applicant can demonstrate, to the satisfaction of the Division, that the modifications will provide soil Erosion controls equivalent to, or better than, the originally approved Construction Activities Storm Water Pollution Prevention Plan.

(Ord. No. 03-19 Add 03/06/2003)

**18-7-110. RESPONSIBILITY OF PERMITTEE.**

During Grading operations the Permittee shall be responsible for:

- (1) The prevention of damage to any public utilities or services within the limits of Grading, and along any routes of travel of the equipment; and

(2) The prevention of damage to adjacent property. No Person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result; and

(3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the Storm Water Management Permit and this Chapter; and

(4) The prompt removal of all soil, miscellaneous debris or materials that have been applied, dumped, or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares, or any other non-authorized off-site location.

(Ord. No. 03-19 Add 03/06/2003)

**18-7-111. EROSION CONTROL FACILITIES.**

(1) All temporary Erosion control facilities, and all permanent facilities intended to control Erosion of any earth disturbance operations, shall be installed as defined in the approved plans. The installation of the first level of temporary Erosion control facilities shall be installed and inspected prior to any earth disturbance operations taking place.

(2) All required Best Management Practices shall be installed in accordance with the Guidance Document for Storm Water Management and maintained throughout the duration of the construction project.

(3) Any earth disturbance shall be conducted in such a manner so as to effectively reduce accelerated soil Erosion and resulting Sedimentation.

(4) All Persons engaged in earth disturbances shall implement and maintain acceptable soil Erosion and sediment control measures in conformance with the Erosion control technical standards of the Guidance Document and in accordance with the soil stabilization plan approved by the City.

(5) All earth disturbances shall be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time.

(6) Suspended Sediment caused by accelerated soil Erosion shall be removed from runoff water before it leaves the site of the earth disturbance.

(7) Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth disturbance area shall be designed to limit the water flow to a non-erosive velocity.

(8) Temporary soil Erosion control facilities shall be removed and earth disturbance areas graded and stabilized with permanent soil Erosion control measures pursuant to the standards and specifications prescribed in accordance with the provisions of the Guidance Document for Storm Water Management and in accordance with the permanent Erosion control features shown on the Construction Activities Storm Water Pollution Prevention Plan approved by the City.

(9) Soil Erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fourteen (14) calendar days after final Grading, or final earth disturbance, has been completed. All temporary soil Erosion control measures shall be maintained until permanent soil Erosion control measures are implemented.

(10) The owner, Developer, Contractor and/or their authorized agents shall be responsible for the removal of all construction debris, dirt, trash, rock, sediment, and sand that may accumulate in the Storm Water Drainage System and Storm Water appurtenances as a result of site development.

(11) No Person shall cause the impediment of Storm Water flow in the flow line of the curb and gutter.

(12) The contractor shall prevent Sediment, debris and all other pollutants from entering the Storm Water Drainage System during all phases of demolition.

**(Ord. No. 03-19 Add 03/06/2003)**

#### **18-7-112. MAINTENANCE REQUIREMENTS.**

The Permittee carrying out Grading and Erosion control measures under this Chapter, and all subsequent owners or tenants of property on which such measures have been taken, shall maintain all temporary and permanent Erosion control measures, retaining walls, structures, plantings, and other protective devices. Should the Permittee, or any of the subsequent property owners or tenants, fail to adequately maintain the temporary and permanent Erosion control facilities, retaining walls, structures, plantings, and other protective devices, the City reserves the authority to enter affected property and take such action as authorized by Section 18-7-107 of this Code.

**(Ord. No. 03-19 Add 03/06/2003)**

#### **18-7-113. VARIANCES AND EXCEPTIONS.**

No Grading and Erosion component of a Storm Water Maintenance Permit shall be required for the following:

- (1) Agricultural use of land zoned agricultural.
- (2) Grading or an excavation below finished grade for basements, footings, retaining walls, or other structures unless required otherwise under Section 18-7-106 above.
- (3) A sidewalk or driveway authorized by a valid permit unless required otherwise under Section 18-6-107 above. Parking lot construction is not exempted if such construction qualifies under said section.
- (4) The repair or maintenance of all utilities under hard surfaced roads, streets, or sidewalks provided such land disturbing activity is confined to the area which is hard surfaced and provided that runoff and Erosion from soil stockpiles is confined and will not enter the Drainage System.
- (5) Even if no permits are required under subsections 18-7-113(1) through (4) above, those operations and construction activities which are exempted from obtaining permits must still comply with the rules and regulations concerning Grading, Erosion control, and water quality specified in this Chapter, and shall provide appropriate controls to retain sediment on the construction site.

Exemption from the City requirements for submitting a Construction Activities Storm Water Pollution Prevention Plan does not preclude the Developer from obtaining any required state or federal permits.

**(Ord. No. 03-19 Add 03/06/2003)**

#### **18-7-114. INSPECTION.**

If the Division finds that the Erosion and sediment control devices are not removing the accelerated Erosion and Suspended Sediment prior to the drainage leaving the construction site, the Division may direct the Permittee by written order to install any Erosion and sediment controls that are deemed necessary to prevent said soil Erosion from migrating off site. If immediate additional Erosion and sediment control or repair is necessary due to functional inadequacies, the Permittee shall be verbally notified followed by a written confirmation. It shall be the duty of the Permittee to immediately take all necessary steps to comply with such order and otherwise to take all necessary steps to prevent such migration of sediment off the premises or entering receiving waters. Delivery of an order by the Division to the Permittee shall be deemed to be notice of such order.

**(Ord. No. 03-19 Add 03/06/2003)**

#### **18-7-115. RIGHT OF ENTRY.**

The Public Works Director and the Public Works Director's duly authorized agents, having proper credentials and identification, shall be permitted to enter at all reasonable times in, or upon, any private or public property for the purpose of inspecting and investigating conditions and practices which may be in violation of the Grading and Erosion control component of a Storm Water Management Permit or in violation of the regulations set forth in this Chapter.

**(Ord. No. 03-19 Add 03/06/2003)**



**CHAPTER 18-8**  
**BONDING FOR DRAINAGE SYSTEM FACILITIES**

Sections:

- 18-8-101. Performance Bonds.
- 18-8-102. Bond Processing.
- 18-8-103. Land to which this Ordinance Applies.
- 18-8-104. Basis for Establishing the Areas of Special Flood Hazard.
- 18-8-105. Compliance.
- 18-8-106. Abrogation and Greater Restrictions.
- 18-8-107. Interpretation.
- 18-8-108. Warning and Disclaimer of Liability.
- 18-8-109. Establishment of Development Permit.
- 18-8-110. Designation of the City Engineer.
- 18-8-111. Duties and Responsibilities of the City Engineer.
- 18-8-112. Variance Procedure.
- 18-8-113. General Standards.
- 18-8-114. Specific Standards.
- 18-8-115. Floodways.

**18-8-101. PERFORMANCE BONDS.**

(1) At the discretion of the Division, any Permittee may be allowed to provide an improvement bond to guarantee the construction or maintenance of any improvements required or permitted to be constructed under the provisions of this Title. All bonds, sureties or deposits (collectively referred to as a “bond”) allowed by the Division shall be filed with the City and shall guarantee the performance of all construction and/or the payment of all fees required under the terms of this Title. Said bond shall be accompanied by an agreement in a form approved by the City Attorney’s Office. The agreement shall include, but not be limited to, the following:

- (a) All data required to compute the cost of the improvements by the Public Works Department.
- (b) Completion of the improvements within a period of time not to exceed 2 years from the date the agreement is executed, the time period may be extended upon approval of the Division.
- (c) The improvements shall be completed to the satisfaction of the Public Works Department and according to City standards as established by the Division, and in accordance with the most current version of the APWA Utah Chapter Manual of Standard Specifications adopted by the City Council.
- (d) The bond amount shall be equal to the Division’s estimated cost of the public improvements to be installed, plus the product of the current annual inflation rate, times the number of years the bond will be in effect, times the estimated cost of the public improvements to be installed.

- (e) The City shall have exclusive control over the bond proceeds and they may be released only upon written approval of the City.
- (f) The bond proceeds may be reduced upon request as the improvements are installed. The amount of the reduction shall be determined by the Division. Such requests may be made only once every 30 days and no reductions shall be authorized until such time as the Division has inspected the improvements and found them to be in compliance with City standards. No partial release shall constitute acceptance of the improvements by the City. Acceptance by the City shall not occur until all improvements are completed, inspected by the City in their completed condition, and are, in their entirety, accepted by written notice from the City to the Permittee.
- (g) If the bond proceeds are inadequate to pay the cost of the completion of the improvements according to City standards for whatever reason, including previous reductions, then the Permittee shall be responsible for the deficiency and no further building permits shall be issued to the Permittee until such improvements are completed or a new bond has been executed to insure completion of the remaining improvements.
- (h) In all cases, 20 percent of the bond amount for such improvements shall extend for a one-year period beyond the date the construction is completed to guarantee replacement of defects. The Permittee or Person posting the bond shall be responsible for any substandard improvements if the 20 percent proceeds are inadequate. Said 20 percent bond may be posted by the Person actually constructing the improvements, upon approval by the Division.
- (i) If, upon written demand of the City after expiration of the time period specified in the bond agreement, the bond proceeds are not transferred to the City within 30 days of the demand, then the City’s costs of obtaining the proceeds, including the City Attorney’s Office costs or outside attorney’s fees and court costs, shall be deducted from the bond proceeds.
- (j) Upon receipt of the bond proceeds, after the expiration of the time period specified in the bond agreement, the costs of completion shall include reimbursement to the Public Works Department and all other City departments for the costs of administration of the completion of the improvements, and costs of obtaining the bond proceeds as outlined in (i) above.
- (k) The Permittee agrees to hold the City harmless from any and all liability which may arise as a

result of the improvements which are installed until one year after the City accepts the improvements.

(2) At the discretion of the Division, any of the following types of bonds may be acceptable:

- (a) A surety bond with a surety company licensed to do business in the State of Utah.
- (b) An Irrevocable Letter of Credit issued by a federally or State insured financial institution.
- (c) A cashier's check, cash, personal or company check, or a money market certificate made payable only to the City.

(3) The time period for the completion of the required improvements may be extended in the following manner:

- (a) Upon approval of the Division and City Manager, the time period may be extended an additional two years from the expiration date of the original bond agreement.
- (b) All approvals of extensions of the bond agreement shall be in a form approved by the City Attorney's Office and in compliance with all the provisions of this Chapter.
- (c) Any additional extensions of the bond agreement shall be by approved by the City Council.

**(Ord. No. 94-110 Amended 09/21/1994; Ord. No. 03-19 Amended 03/06/2003)**

#### **18-8-102. BOND PROCESSING.**

(1) Inspection of improvements shall be made within a reasonable time upon completion and request. If the inspection confirms that the improvements have been constructed in accordance with City standards and specifications, the bond shall be released within a reasonable time following the inspection. If the bond is not released, written notice of the refusal to release and the reasons for the refusal shall be given to the Permittee within a reasonable time following the inspection.

(2) If the improvements required by the Storm Drainage Management Permit are part of a Subdivision application, the bonding for said improvements shall be part of the performance bond required in the West Valley City Subdivision Ordinance. In either case, the bond shall provide for the one-year warranty provisions set forth in Section 18-8-101(h) of this Title.

**(Ord. No. 94-110 Amended 09/21/1994; Ord. No. 03-19 Amended 03/06/2003)**

#### **18-8-103. LAND TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of West Valley City.

**(Ord. No. 94-110 Amended 09/21/1994)**

#### **18-8-104. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for West Valley City," effective September 30, 1994, with an accompanying Flood Insurance Rate Map (FIRM) dated September 30, 1994, is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and FIRM are on file in the office of the West Valley City Public Works Department.

**(Ord. No. 94-110 Amended 09/21/1994)**

#### **18-8-105. COMPLIANCE.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

**(Ord. No. 94-110 Amended 09/21/1994)**

#### **18-8-106. ABROGATION AND GREATER RESTRICTIONS.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.

**(Ord. No. 94-110 Amended 09/21/1994)**

#### **18-8-107. INTERPRETATION.**

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the City; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**(Ord. No. 94-110 Amended 09/21/1994)**

#### **18-8-108. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City, any officer, or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**(Ord. No. 94-110 Amended 09/21/1994)****18-8-109. ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18-8-104. Application for a development permit shall be made on forms furnished by the City Engineer and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 18-8-114(2); and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**(Ord. No. 94-110 Amended 09/21/1994)****18-8-110. DESIGNATION OF THE CITY ENGINEER.**

The City Engineer or the Engineer's designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

**(Ord. No. 94-110 Amended 09/21/1994)****18-8-111. DUTIES AND RESPONSIBILITIES OF THE CITY ENGINEER.**

Duties of the City Engineer shall include, but not be limited to:

- (1) Permit Review.
  - (a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
  - (b) Review all development permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required.
  - (c) Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway, assure that the encroachment provisions of Section 18-8-115(1) are met.
- (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 18-8-104, "Basis for Establishing the Areas of

Special Flood Hazard," the City Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 18-8-114, "Specific Standards."

- (3) Information to be Obtained and Maintained.
  - (a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - (b) For all new or substantially improved flood-proofed structures:
    - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed.
    - (ii) Maintain the flood-proofing certifications required in Section 18-8-109(3).
  - (c) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (4) Alteration of Watercourses.
  - (a) Notify adjacent communities and the State Division of Comprehensive Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18-8-112, "Variance Procedure."

**(Ord. No. 94-110 Amended 09/21/1994)****18-8-112. VARIANCE PROCEDURE.**

- (1) Appeal Board.
  - (a) The Board of Adjustment, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
  - (b) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.
  - (c) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the Third District Court, as

- provided in Section 10-9-708, Utah Code Annotated 1953, as amended.
- (d) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
- (i) The danger that materials may be swept onto other lands to the injury of others;
  - (ii) The danger to life and property due to flooding or erosion damage;
  - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
  - (iv) The importance of the services provided by the proposed facility to the community;
  - (v) The necessity to the facility of a waterfront location, where applicable;
  - (vi) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
  - (vii) The compatibility of the proposed use with the existing and anticipated development;
  - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and
  - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
- (e) Upon consideration of the factors of Section 18-8-112(1)(d) and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (f) The City Engineer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.
- (2) Conditions for Variances.
- (a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that items (i) thru (xi) of Section 18-8-112(1)(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.
  - (b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national register of historic places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.
  - (c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - (d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (e) Variances shall only be issued upon:
    - (i) A showing of good and sufficient cause;
    - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 18-8-112(1)(d), or conflict with existing local laws or ordinances.
  - (f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

**(Ord. No. 94-110 Enacted 09/21/1994)**

**18-8-113. GENERAL STANDARDS.**

In all areas of special flood hazard, the following standards are required:

- (1) Anchoring.
  - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and must be capable of resisting hydrostatic and hydrodynamic loads.
  - (b) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and must be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to

- ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:
- (i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
  - (ii) Frame ties be provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
  - (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (iv) Any additions to the manufactured home be similarly anchored.
- (2) Construction Materials and Methods.
- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities.
- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
  - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision Proposals.
- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development that contain at least 50 lots or five acres, whichever is less.

**(Ord. No. 94-110 Ren & Amd 09/21/1994 18-8-112)**

**18-8-114. SPECIFIC STANDARDS.**

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 18-8-104, "Basis for Establishing the Areas of Special Flood Hazard," or Section 18-8-111(2), "Use of Other Base Flood Data," the following provisions are required:

(1) Residential Construction.

- (a) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.
- (b) Require within any AO Zone that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
- (c) Require within Zones AH and AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(2) Nonresidential Construction.

- (a) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
  - (i) Be flood proofed so that below the base flood elevation the structure is watertight, with walls substantially impermeable to the passage of water;
  - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance. Such certification shall be provided to the official as set forth in Section 18-8-111(3)(b).
- (b) Require within any AO Zone that all new construction and substantial improvements of non-residential structures:



- (i) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified); or
  - (ii) Together with attendant utility and sanitary facilities be completely flood proofed to that level to meet the flood proofing standard specified in Section 18-8-114(2)(a).
- (c) Require within Zones AH and AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (3) Manufactured Homes.
  - (a) Manufactured homes shall be anchored in accordance with Section 18-8-113(1)(b).
  - (b) All manufactured homes or those to be substantially improved shall conform to the following requirements:
    - (i) Require that manufactured homes that are placed or substantially improved on a site (1) outside of a manufactured home park or subdivision, (2) in a new manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, or (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - (ii) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (i) above be elevated so that either (1) the lowest floor of the manufactured home is at or above the base flood elevation, or (2) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (4) Recreational Vehicles. Require that recreational vehicles either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway

use, or (3) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

(5) Openings in Enclosures Below the Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (b) The bottom of all openings shall be no higher than one foot above grade;
- (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

**(Ord. No. 94-110 Ren & Amd, 09/21/1994 18-8-113)**

**18-8-115. FLOODWAYS.**

Located within areas of special flood hazard established in Section 18-8-104 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 18-8-113, *et seq.*

**(Ord. No. 94-110 Enacted 09/21/1994)**

**CHAPTER 18-9  
PROHIBITED ACTIONS AND ENFORCEMENT**

Sections:

- 18-9-101. Violations of this Title.
- 18-9-102. Storm Water Management Permit Required.
- 18-9-103. No Polluted Waters Discharged to Storm Sewers.
- 18-9-104. Obstruction.
- 18-9-105. Dumping.
- 18-9-106. Notification of Spills.
- 18-9-107. Inspections.
- 18-9-108. Testing and Monitoring.
- 18-9-109. Obstruction of or Damage to Facilities.
- 18-9-110. Unauthorized Turning of Water from Ditch Prohibited.
- 18-9-111. Gate to be Constructed.
- 18-9-112. Waste Water to be Returned to Watercourse.
- 18-9-113. Enforcement.
- 18-9-114. Violations.
- 18-9-115. Additional Sanctions Against Corporation or Associationn.
- 18-9-116. Removal of Obstructions.

**18-9-101. VIOLATIONS OF THIS TITLE.**

It is unlawful for any Person, corporation, association, partnership or governmental entity to willfully violate any of the provisions of this Title, the Division standards and specifications or to aid or cause the violation of any of said provisions.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-102. STORM WATER MANAGEMENT PERMIT REQUIRED.**

It is unlawful to conduct any activity which is subject to the Storm Water Management Permit requirements of this Title upon any specific parcel of real property within the City unless a Storm Water Management Permit and all of its then-applicable components have been issued for that specific parcel of real property.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-103. NO POLLUTED WATERS DISCHARGED TO STORM SEWERS.**

The only substance allowed to be discharged under this Chapter into the City's Storm Water Drainage System is Storm Water, surface drainage, subsurface drainage, groundwater, roof runoff, cooling water, or non-polluted water. Such water may be discharged only into Storm Water Drainage System facilities which have adequate capacity for the accommodation of such water. Such discharged water shall comply with the City's Storm Water quality standards.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-104. OBSTRUCTION.**

(1) It is unlawful for any Person to obstruct or contribute to the obstruction of the flow of Storm Water runoff or non-storm water runoff into any sump, retention basin, storm drain, curb and gutter, drain inlet, or other associated structural controls that convey Storm Water and/or non-storm water runoff, unless the obstruction is authorized in writing by the Division.

(2) It is unlawful for a Person to cover over any Drainage System inlet for any reason or purpose, unless the obstruction is authorized in writing by the Division, provided however, that Drainage System inlets may be temporarily obstructed in emergency situations in order to prevent contaminants from entering the system.

(3) Subsections (1) and (2) above shall not apply during clean-up periods established by the City, provided the materials are placed according to any directions from the City and do not obstruct Drainage System inlets.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-105. DUMPING.**

(1) It is unlawful for any Person to dump, or allow to flow into any sump, detention basin, storm drain, curb and gutter, drain inlet, or other storm drainage structure that conveys Storm Water and/or non-storm water, any type of debris, petroleum product, chemical, paint, pesticide, herbicide, detergent, heavy metal, acid or base product, solid or liquid waste product, hazardous waste product, and/or human or animal waste.

(2) The restriction set forth in Subsection (1) shall not apply to the normal runoff of non-storm water related to domestic home uses, such as lawn watering, washing cars, etc.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-106. NOTIFICATION OF SPILLS.**

(1) All Persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the City Public Works Department upon becoming aware of any suspected, confirmed or unconfirmed release of material, pollutants or waste that creates a risk of discharge into the Municipal Separate Storm Water Drainage System.

(2) As soon as any Person in charge of a facility or responsible for emergency response for a facility has knowledge of any release of materials as described in Subsection (1), such Person shall take all necessary steps to ensure the containment and clean up of such release and shall notify the city Public Works Department of the occurrence no later than the next business day.

(3) The notification requirements of this Section are in addition to any other notification requirements set forth in federal, state or local regulations and/or laws.



**(Ord. No. 03-19 Add 03/06/2003)****18-9-107. INSPECTIONS.**

Whenever the Division determines it is necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an Authorized Enforcement Agent has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this Chapter, the Agent may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the agent by this Chapter; provided that:

- (1) if such building or premises is occupied, he or she first shall present proper credentials and request entry; and
- (2) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other Persons having charge or control of the building or premises and request entry.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-108. TESTING AND MONITORING.**

(1) Whenever the Director of Public Works or his designee determines that any Person engaged in any activity and/or owning or operating any facility may cause or contribute to Storm Water pollution or illicit discharges to the Storm Water Drainage System, the Director of Public Works or his designee may, by written notice, order that such Person undertake such monitoring activities and/or analyses and furnish such reports as the Director of Public Works or his designee may recommend. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

(2) In the event the owner or operator of a facility fails to conduct the monitoring and/or analyses and furnish the reports required by the order in the time frames set forth therein, the City may cause such monitoring and/or analyses to occur and assess all costs incurred, including reasonable administrative costs and attorney's fees, to the facility owner or operator. The City may pursue judicial action to enforce the order and recover all costs incurred.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-109. OBSTRUCTION OF OR DAMAGE TO FACILITIES.**

It shall be unlawful for any Person, agency, firm, municipality, county or district to place or cause to be placed in the easement, channel, bed or bank of any river, stream, wash or other natural drain or within or upon any storm drain, flood control channel, reservoir, Detention basin, debris

basin, spreading ground or other property over which the City has an interest, matter of any kind that may operate to impede, retard or change the normal direction of the flow of Flood, Storm or other Waters, or that may catch or collect debris carried by such Waters, or that may be carried downstream by such Waters to the damage and detriment of adjacent private or public property, or that may degrade the quality of the water, without first obtaining a written permit for such placement from the Division.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-110. UNAUTHORIZED TURNING OF WATER FROM DITCH PROHIBITED.**

Any Person who shall turn the water from any watercourse or related facility located within the corporate boundaries of the City during the irrigation season, except when the use of said water shall be duly allotted to him, or shall willfully or maliciously break any dam, gate, sluice or ditch used for diverting or controlling water or in any manner change the current of flow of the water used for irrigation, open City secured gates or weirs or in any manner damage any watercourse or related facility, that Person shall be guilty of a Class "B" misdemeanor and may be prosecuted upon a complaint alleging such being filed with the City Attorney by a property owner affected, or by the Public Works employee who secured the gate or weir to prevent Flooding by such wrongful act. Where the water in any such facility is found turned and running on any Person's property other than the Person entitled to the same, it shall be deemed prima facie evidence that such water was appropriated unlawfully and with intent to violate the provisions of this Chapter.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-111. GATE TO BE CONSTRUCTED.**

No Person shall convey water from a City-regulated watercourse to his lot or premises by an irrigation ditch, flume, pipe or other apparatus without first having constructed, under the direction of the Division, a gate, both in the City-controlled watercourse and at the head of the branch watercourse, the latter of which shall be kept closed and water tight, except during the period allotted to him for the use of such water.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-112. WASTE WATER TO BE RETURNED TO WATERCOURSE.**

Any Person using water for irrigation purposes shall conduct the surplus or waste water into a City-approved watercourse and shall not allow such water to flood the streets, sidewalks, or other public property, or any private property, or cause damage thereto.

**(Ord. No. 03-19 Add 03/06/2003)****18-9-113. ENFORCEMENT.**

(1) This Title may be enforced through the Administrative Code Enforcement ("ACE") Hearing Program

established in Title 10 of the West Valley City Municipal Code, or by filing civil or criminal actions in the District Court as provided by law. The City has sole discretion to decide whether to file a civil or criminal case, or both, for a violation. The possibility of an administrative remedy pursuant to Title 10 shall in no way interfere with the City's right to prosecute violations of this Title as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution. If the City chooses to file both civil and criminal charges for the same violation, no civil penalties may be assessed, but all other remedies are available.

(2) In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be considered a threat to the public health, safety, welfare and the environment, and may be declared and deemed a nuisance by the Director of Public Works or his designee, and may be summarily abated and/or restored by the City and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-114. VIOLATIONS.**

(1) Unless otherwise provided herein or by state or federal law, any Person violating the provisions of this Title, either by failing to do those acts required herein or by doing any act prohibited herein, shall be guilty of a Class "C" misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such.

(2) If, as the result of the violation of any provision of this Chapter, the City or any other party suffers damages and is required to make repairs and/or replace materials, the cost of repair or replacement shall be borne by the party in violation, in addition to any criminal fines and/or penalties.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-115. ADDITIONAL SANCTIONS AGAINST CORPORATION OR ASSOCIATION.**

(1) When a corporation or association is convicted of violating any of the provisions of this Title, the court may, in addition to or in lieu of imposing other authorized penalties, require the corporation or association to give appropriate publicity of the conviction by notice to the class or classes of Persons or sections of the public interested in or affected by the conviction, by advertising in designated areas, or by designated media or otherwise.

(2) When an executive or high managerial officer of a corporation or association is convicted of a violation of any of the provisions of this Title, committed in furtherance of the affairs of the corporation or association, the court may include in the sentence an order disqualifying him from exercising similar functions in the same or other corporations or associations for a period not exceeding five years if it finds the scope or willfulness of his illegal actions make it dangerous or inadvisable for such functions to be entrusted to him.

**(Ord. No. 03-19 Add 03/06/2003)**

**18-9-116. REMOVAL OF OBSTRUCTIONS.**

In addition to any penalties which may be imposed pursuant to this Chapter, the Division may do the following:

(1) Remove any of the obstructions described in Section 18-9-104 and also, any pipelines or other devices installed in violation of the provisions of this Title;

(2) Give written notice to Persons in violation of the provisions of this Title requiring the removal of offending installations from natural channels or other storm drainage facilities. Notices may be personally served or may be mailed to violators by registered mail provided that a copy is also posted on offending installations for a period of 10 days. If such installations are not removed within 10 days after notice is given, the Division may effect removal at the expense of the Person in violation and may recover its costs and expenses therefor; and/or

(3) Bring an action for the abatement of the nuisance caused by the offending installation, and/or for the recovery of the City's costs and expenses incurred in removing the offending installation pursuant to Subsections (1) or (2), above.

**(Ord. No. 03-19 Add 03/06/2003)**